



REPORT FOR ACTION

Supplementary Report - Expanded Gaming at Woodbine Racetrack - City Conditions

Date: April 24, 2018
To: City Council
From: Interim City Manager
Wards: All

SUMMARY

Executive Committee in its consideration of EX33.2, Expanded Gaming at Woodbine Racetrack - City Conditions, requested the Interim City Manager to report directly to the April 2018 Council meeting on the possibility of the Ontario Gaming GTA Limited Partnership (OGGLP) providing child care for casino employees, and any other plans for child care in close proximity of the site.

This report also responds to the Executive Committee's request to the Interim City Manager that she consult with OGGLP and report directly to City Council with an analysis of the implications, including legal and financial, of the proposals and the positive benefits for equity seeking groups of the following:

1. Under the section Local Employment and Hiring, Employment in Construction (p.g.3 of Appendix 1 of EX33.2), delete the wording "use all reasonable commercial efforts to" so that it now reads: "OGGLP will require its construction contractors to ensure that a minimum of 10 percent of the overall trade and craft working hours will be worked by apprentices or journeypersons from the Woodbine Local Area or equity seeking groups".
2. That the Toronto Community Benefits Network be included in the Employment and Labour Market Advisory Working Group and the Casino Woodbine Responsible Gaming Oversight Committee.
3. That the Toronto and York Regional Labour Council be included in the Community Steering Committee and the Employment and Labour Market Advisor Group.

RECOMMENDATIONS

The Interim City Manager recommends that:

1. Under the section Local Employment and Hiring, Employment in Construction (p.g.3 of Appendix 1 of Item EX33.2), delete the wording "use all reasonable commercial efforts to" and replace it with "use all best efforts to" so that it now reads: "OGGLP will use all best efforts to require its construction contractors to ensure that a minimum of 10 percent of the overall trade and craft working hours will be worked by apprentices or journeypersons from the Woodbine Local Area or equity seeking groups".
2. Under the section Governance, Employment and Labour Market Advisory Working Group (p.g.7 of Appendix 1 of Item EX33.2) add the following membership "Labour representation on behalf of the Locals representing Casino Woodbine employees".

FINANCIAL IMPACT

There is no financial impact resulting from the adoption of the recommendations in this report.

DECISION HISTORY

On April 17, 2018, Executive Committee considered staff's assessment of the 9 social conditions for expanded gaming and identified the Terms and Conditions of a Community Benefits Agreement (CBA). The Committee requested that the Interim City Manager consult with the OGGLP and report back on amendments to the Terms and Conditions of the CBA and child care.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2018.EX33.2>

COMMENTS

Context

On July 7, 2015, City Council passed a resolution supporting expanded gaming at Woodbine Racetrack subject to, among other things, Ontario Lottery and Gaming Corporation's (OLG) service provider meeting 21 conditions (EX7.4) and requesting OLG to include the 21 conditions in their procurement process for the GTA Gaming Bundle. In response, OLG provided Council's 21 conditions to all proponents bidding on the GTA Gaming Bundle as part of its procurement process. OLG also included the 21 conditions in its contractual documents for the GTA Gaming Bundle, which require the service provider to report to OLG on how it plans to satisfy the City conditions.

The 21 conditions include 12 planning conditions, and 9 social (or non-planning) conditions focused on community benefits including local economic development, local

employment, access to community space, responsible gambling matters, and the execution of a Community Benefits Agreement (CBA) between the City and the service provider.

On August 8, 2017, OLG selected Ontario Gaming GTA Limited Partnership (OGGLP), which is comprised of Great Canadian Gaming Corporation and Brookfield Business Partners LP, as the successful private sector service provider for the GTA Gaming Bundle. As the Service Provider, OGGLP is required to meet the City's 21 conditions for expanded gaming at Woodbine. It is within this context that the OGGLP entered into discussions with the City over a six-month period to address City Council's 21 conditions and inform their business plans.

On April 17, 2018, Executive Committee considered report EX33.2, Expanded Gaming at Woodbine Racetrack - City Conditions, which provided staff's assessment on how OGGLP has met or has contractually committed to meeting the 9 social (non-planning) conditions and identified the terms and conditions of a CBA (contained in Attachment 1 of Item EX33.2). Executive Committee requested that the Interim City Manager consult on four proposed amendments to the CBA with OGGLP including amending the membership of the governance tables and deleting the wording "use all reasonable commercial efforts" in the Employment in Construction section of the CBA, as well as consulting with OGGLP on the possibility of them providing child care to casino employees.

The Interim City Manager has consulted with the Service Provider and provides the responses to Executive Committee's requests below.

Delete the wording "use all reasonable commercial efforts to" from the Employment in Construction Section of the CBA.

OGGLP has agreed to remove the words "use all reasonable commercial efforts to", and replace with the words "use all best efforts to" so that the condition related to employment in construction would now read: "OGGLP will use all best efforts to require its construction contractors to ensure that a minimum of 10 percent of the overall trade and craft working hours will be worked by apprentices or journeypersons from the Woodbine Local Area or equity-seeking groups". This represents a hard target for construction opportunities that will positively benefit people from equity-seeking groups and local residents.

From a legal standpoint, both terms establish a standard that must be met to satisfy the contractual obligation. However, the Courts have held "reasonable commercial efforts" to mean an effort somewhat less than an effort that leaves no stone unturned or "best efforts". On a scale of the most onerous effort required to fulfill a contractual obligation to the least onerous, "best efforts" is the most onerous, followed by "reasonable efforts", and then "reasonable commercial efforts".

The use of the wording "use all best efforts" is in line with other CBAs surveyed in Canada and the United States which include variations of this wording to describe the level of effort required to be exercised in the hiring and procurement targets. Examples from other CBAs include the following wording "best efforts to ensure..." (City of

Vancouver CBA 2015), "good faith efforts" and "make best efforts" (Oakland Army Base CBA, California 2012), and "diligent efforts, in good faith" (Kingsbridge Armory CBA, New York 2013). The 2016 Metrolinx Community Benefits Declaration uses the wording "aspire to achieve" to describe a 10% hiring target for apprentices or journeypersons from equity-seeking groups to work on the Eglinton Crosstown LRT Project.

In the Term Sheet attached as Attachment 1 to Item EX 33.2, OGGLP has already committed to using "all best efforts" to ensure that all related companies and subsidiaries will be similarly bound by the terms of the CBA and to contractually require all third-party contractors implement and adhere to the relevant conditions of the CBA where applicable.

Membership on the Employment and Labour Market Advisory Working Group, Casino Woodbine Responsible Gaming Oversight Committee and the Community Steering Committee

Executive Committee requested amendments to the proposed membership of the Employment and Labour Market Advisory Working Group (to be convened by OGGLP), the Casino Woodbine Responsible Gaming Oversight Committee (to be convened by OLG) and the Community Steering Committee (to be convened by the City). In preparing a response to this request, staff followed up with OGGLP and OLG.

For context, building on City Council's 21 conditions, report EX33.2 outlined the establishment of 3 governance tables including the Employment and Labour Market Advisory Working Group, Casino Woodbine Responsible Gambling Oversight Committee, and a Community Steering Committee. Collectively, these tables would provide a forum for discussion and collaboration, enable issues to be identified and problem-solved, allow for regular reporting and tracking of CBA targets, and regular public reporting on progress. Through the 3 tables, the governance framework fosters transparency and accountability in meeting CBA targets, which will result in positive benefits for equity-seeking groups in Toronto.

The establishment of both the Employment and Labour Market Advisory Working Group and the Casino Woodbine Responsible Gambling Oversight Committee were requested through the 21 conditions. In report EX33.2, staff proposed the establishment of a Community Steering Committee to be convened and chaired by the City to monitor the implementation of the CBA over the long-term (non-planning conditions). The initial membership is the Service Provider, Toronto Community Benefits Network (TCBN), United Way Greater Toronto, Atkinson Foundation, Humber College, and local residents through the Kingsview Village and Rexdale planning tables. As well, OLG and Woodbine Entertainment Group (WEG) will be invited to participate as observers.

The following table provides an overview of the governance tables.

Table 1 - Overview of Governance Tables

Tables	Convener/Chair	Mandate	Reporting*
Community Steering Committee	City of Toronto (Chair, Social, Development, Finance and Administration)	Monitor the implementation of the CBA over the long term including receiving regular reports on CBA targets, hearing feedback and community concerns related to the implementation of the CBA (non-planning conditions) and informing City staff reports to City Council.	<ul style="list-style-type: none"> Annual reporting to City Council – first report in 2020 as implementation ramps up, followed by annual reporting starting in 2021. Staff reports will be informed by the work of all of the Governance tables.
Employment and Labour Market Advisory Working Group	Service Provider (OGGLP)	Technical and operational information sharing table to oversee the implementation and reporting of outcomes of the Employment and Labour Market Plan (developed by OGGLP) including skills training, operations employment opportunities, and apprenticeship opportunities.	<ul style="list-style-type: none"> Quarterly public reporting to the Community Steering Committee. Annual public reporting on key activities and progress against targets.
Casino Woodbine Responsible Gambling (RG) Oversight Committee	Ontario Lottery and Gaming Corporation (OLG)	Technical table to monitor, identify and report on potential risks related to problem gambling and provide input on the RG program.	<ul style="list-style-type: none"> Regular public reporting to the Community Steering Committee. Annual public reporting on activities and key metrics.

* OGGLP will also report annually on how it is meeting its commitments under the CBA either as a standalone report or as part of a broader corporate social responsibility report.

Employment and Labour Market Advisory Working Group

Executive Committee requested that the Toronto Community Benefits Network (TCBN) and the Toronto and York Region Labour Council be included in the membership of the Employment and Labour Market Advisory Working Group.

City Council's Condition 15 requested that the Service Provider establish an Employment and Labour Market Advisory Working Group and set its membership comprising of representatives from the service provider, the City of Toronto, and other relevant stakeholders (e.g. the OLG) to oversee the implementation and reporting of outcomes of the Employment and Labour Market Plan, including skills training and apprenticeship opportunities that provide improvements to the lives of Toronto residents and create positive benefits for equity-seeking groups.

The OGGLP Terms of Reference for the Working Group indicate that the initial membership will include the City, OLG, Humber College, the YMCA, and other community-based employment and workforce training organizations serving the Etobicoke/Rexdale area. The intended purpose of the Working Group is to facilitate technical and operational information-sharing and to support the collaborative implementation of the Employment and Labour Market Plan. The Working Group will provide quarterly updates to the Community Steering Committee who will be able to review and provide feedback to the Working Groups on their work, as well as report annually on key activities and progress against targets over the life of the CBA.

Through follow up consultations, the OGGLP has indicated that they heard the desire to have labour on the Working Group and will allocate one seat for labour on the Working Group to be filled by a representative of one of the Locals that represents Casino Woodbine employees.

The Service Provider has indicated that having one seat on the Working Group to represent the Locals that operate on-site will build an ongoing and long-term direct relationship with operational labour. Currently, three Locals represent Casino Woodbine employees, including: Public Service Alliance of Canada Local 533, Teamsters Local 938, and Unifor Local 504. The Service Provider notes that the Working Group is not intended as a forum for negotiation and will not supplant the Service Provider's individual relationship with each of the three Locals. Finally, the Service Provider has indicated that the mechanism to determine which representative from the three Locals will fill the labour seat on the Working Group should be decided by the leadership of the Locals, potentially on an annual basis.

The Service Provider has indicated that the Toronto Community Benefits Network (TCBN) is a member of the Community Steering Committee and that the Toronto and York Region Labour Council is a member and co-founder of TCBN.

Casino Woodbine Responsible Gambling Oversight Committee

Executive Committee requested that the Toronto Community Benefits Network (TCBN) be included in the membership of the Casino Woodbine Responsible Gaming Oversight Committee. Staff consulted with OLG on the proposed amendment.

OLG is responding to a portion of Condition 21 from the City of Toronto by establishing a Responsible Gambling Oversight Committee. The Committee will be convened and chaired by OLG as the organization responsible for the oversight and policy development of Responsible Gambling (RG) in Ontario within a framework defined by the provincial regulator the Alcohol and Gaming Commission of Ontario (AGCO) and the Province. The purpose of the Committee will be to monitor, identify and report on potential risks related to problem gambling and provide input on the RG program as part of the expansion of gaming at Casino Woodbine. The Committee is a technical and research focussed table to inform the RG Program.

Consistent with Condition 21, the draft Terms of Reference for the Committee indicate that it will be comprised of representatives from the Service Provider and the City (including Toronto Public Health). Other organizations, including the Ministry of Health and Long-Term Care, the Centre for Addiction and Mental Health, Alcohol and Gaming Commission of Ontario (AGCO), and relevant research and community-based stakeholders with technical expertise in the responsible gambling field will also be invited to participate in the Committee. Finally, invitations will also be extended to local addiction and treatment providers like the YMCA, William Osler Health System and credit counselling organizations.

The Responsible Gambling Oversight Committee will provide regular updates to, and receive feedback from, the Community Steering Committee. This reporting relationship allows the Responsible Gambling Oversight Committee to engage key non-technical stakeholders in the broader community and provide the Community Steering Committee (which will include members of the local community at large, including the Toronto Community Benefits Network, United Way Greater Toronto, Humber College and other community groups) the opportunity to continuously engage with, and provide input into, the RG program through dialogue and collaboration. OLG supports regular engagement of the local community through the Community Steering Committee.

Community Steering Committee

Executive Committee requested that the Toronto and York Region Labour Council be included in the Community Steering Committee. Report EX33.2 proposes the establishment of a Community Steering Committee to be convened and chaired by the City of Toronto (Social Development, Finance and Administration) to monitor the implementation of the CBA over the long term (the non-planning conditions). Both the Employment and Labour Market Advisory Working Group and the Responsible Gambling Oversight Committee will report regularly to the Community Steering Committee.

The establishment of a Community Steering Committee was not a condition set by City Council in 2015, but through the 2015 and 2017-2018 community engagement, it was

repeatedly emphasized that local communities want to be engaged in the governance and accountability tables established to support the implementation of the CBA. Community inclusion in governance and accountability is a key principle in CBAs.

The work of the Community Steering Committee will benefit from the expertise and perspectives of labour organizations, who are important partners in ensuring the success of the CBA and the targets it contains. The initial composition of the City-chaired Community Steering Committee includes the Service Provider, Toronto Community Benefits Network (TCBN), United Way Greater Toronto, Atkinson Foundation, Humber College, and local residents through the Kingsview Village and Rexdale planning tables. As well, OLG and Woodbine Entertainment Group (WEG) will be invited to participate as observers. TCBN is a community-labour coalition of 80 organizations, including 11 labour organizations. The Toronto & York Region Labour Council is a founding partner and co-Chair of TCBN, and therefore able to contribute to the Community Steering Committee through its leadership of the TCBN.

Child Care for Casino Employees

Executive Committee requested that the Interim City Manager consult with OGGLP on the possibility that they provide child care for casino employees, and report on any other plans for child care in close proximity to the site.

As noted previously in the report, City Council identified 21 conditions in 2015 that were incorporated into OLGs procurement process for the GTA Gaming Bundle as requested by City Council. The 21 conditions did not include child care. On August 8, 2017, OLG selected Ontario Gaming GTA Limited Partnership (OGGLP), which is comprised of Great Canadian Gaming Corporation and Brookfield Business Partners LP, as the successful private sector Service Provider for the GTA Gaming Bundle. As the Service Provider, OGGLP is required to meet the City's 21 conditions for expanded gaming at Woodbine.

OGGLP in considering the City's request to provide child care for casino employees noted that City Council's 21 conditions did not include the provision of child care for casino employees. Had City Council made child care one of the 21 conditions in 2015, then potential proponents for the GTA Gaming Bundle would have had direction to consider the delivery of child care to casino employees, including building capital and operating costs into their financial models and business plans (if they chose to submit a bid). Given that the City's process to review expanded gaming is in its last stages, OGGLP has indicated that they are not in a position to consider child care for casino employees at this time.

Child Care in Close Proximity to the Site

Executive Committee also requested information on "any other plans for child care in close proximity to the site". Staff undertook a high-level review of the child care needs for Wards 1 and 2 that form part of the Woodbine Local Area (defined in report EX33.2) as well as child care available in close proximity to the Casino Woodbine site.

The City's Licensed Child Care Growth Strategy aims to serve 50 per cent of all children age 0-4 across the city by 2026. Based on this target, Ward 1 and Ward 2 are high priority areas for child care expansion. There is currently enough space to service 20 to 30 per cent of children aged 0-4 living in both wards, which is below the Licensed Child Care Growth Strategy target of 50 per cent.

Specifically, in Ward 2, where Woodbine Racetrack is located, there are currently 16 child care centres with an operating capacity of 1,221 child care spaces for all age groups. Thirteen of these centres have a Service Agreement for Fee Subsidy with Children's Services, providing 1,049 spaces that could be used by children with a child care fee subsidy. There are currently 349 children on the waiting list for a subsidized space, with the majority (118) waiting for an infant space. There are plans for three new child care centres projected to open in 2018-2019 that will provide an additional 186 spaces (30 infant, 60 toddler and 96 preschool spaces). All will have a Service Agreement for Fee Subsidy.

In Ward 1, there are 18 child care centres with an operating capacity of 973 child care spaces for all age groups. Sixteen of these centres have a Service Agreement for Fee Subsidy with Children's Services, providing 912 spaces that could be used by children with a child care fee subsidy. There are currently 356 children on the waiting list for a subsidized space, with the majority (110) waiting for an infant space. There are plans for two new child care centres, with one projected to open in 2019, and the other opening date to be determined. These will provide an additional 137 spaces (20 infant, 45 toddler and 72 preschool spaces). All will have a Service Agreement for Fee Subsidy.

The map included in Attachment 1 of this report shows child care centres that are planned or located within a two kilometre radius of the Casino Woodbine site (corner of Rexdale Boulevard and Highway 27) as well as the child care available or planned for Wards 1 and 2.

Within a two kilometre radius there are 12 existing child care centres, and one planned. While casino employees would be able to access these centres, their access would be subject to wait list and admission policies of the centre. Any priority admission for casino workers would have to be negotiated with the individual centre.

Future Child Care Development

Across Ward 1 and Ward 2 new investments in child care are needed. In cases where Children's Services can direct capital development for new child care, it determines the need for new child care spaces according to its Child Care Capital Strategy, which compares current capacity in wards and neighborhoods to the size of the child population. Areas with the lowest current access (capacity to population ratio) are assigned the highest priority for capital development. This supports the Licensed Child Care Growth Strategy, which sets a target of serving 50 per cent of children by 2026. It relies on current Census data and as a result priority levels can change with new population counts.

Other considerations in the siting and opening of new child care centres can include zoning and planning for the site; the capacity of the operator, the financial viability of the

proposed program, renovation or construction costs; other planned child care projects in the area; accessibility of the program to the clients (transportation to and from the program location); nearby land uses, proximity to services or utilities (i.e. hydro corridors); and traffic and aircraft noise considerations. Any new child care must be licensed by the Provincial Ministry of Education in order to operate.

The City is continuously looking for opportunities to expand the child care system, particularly in areas that are underserved and will assess any available opportunities. The future development of the Woodbine lands may offer an opportunity as child care is a permitted use on these lands, but consideration would have to be given to the most appropriate location for a child care centre on the site based on an assessment of the characteristics that can affect the viability of a new child care program as noted above. Report EX33.2 recommends that City Council request that Woodbine Entertainment Group work with the City and local residents on community benefits as part of future development of Woodbine lands. Staff will assess any opportunities as they arise.

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SIGNATURE

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ATTACHMENTS

Attachment 1 - Child Care in Close Proximity to the Casino Woodbine Site